

COMBINED DECLARATION AND POWER OF ATTORNEY
FOR UTILITY PATENT APPLICATION

AS A BELOW-NAMED INVENTOR, I HEREBY DECLARE THAT:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if more than one name is listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: A METHOD FOR SHAPING A NANOTUBE AND A NANOTUBE SHAPPED THEREBY, the specification of which

_____ is attached hereto
X was filed on July 24, 2001

and assigned Serial No. 09/915,207.

I HAVE REVIEWED AND UNDERSTAND THE CONTENTS OF THE ABOVE-IDENTIFIED SPECIFICATION, INCLUDING THE CLAIMS, AS AMENDED BY ANY AMENDMENT REFERRED TO ABOVE.

I acknowledge and understand that I am an individual who has a duty to disclose information which is material to the patentability of the claims of this application in accordance with Title 37, Code of Federal Regulations, §§ 1.56(a) and (b) which state:

- (a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was

violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
 - (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.
- (b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and
- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
 - (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

I do not know and do not believe this invention was ever known or used in the United States of America before my or our invention thereof, or patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to said application. This invention was not in public use or on sale in the United States of America more than one year prior to this application. This invention has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on any application filed by me or my legal representatives or assigns more than one year prior to this application.

I hereby claim priority benefits under Title 35, United States Code § 119(e)(1) of any United States provisional application(s) for patent as indicated below and have also identified below any application for patent on this invention having a filing date before that of the application for patent on which priority is claimed:

Application No.	Date of Filing (day/month/year)	Priority Claimed
60/220,549	July 25, 2000	Yes <u>X</u> No <u> </u>

I hereby appoint the following attorneys and agents to prosecute that application and to transact all business in the Patent and Trademark Office connected therewith and to file, to prosecute and to transact all business in connection with all patent applications directed to the invention:

Dianne E. Reed, Reg. No. 31,292
J. Elin Hartrum, Reg. No. 43,663
Mark A. Wilson, Reg. No. 43,275
Louis L. Wu, Reg. No. 44,413
CUSTOMER NO. 23980

Address all correspondence to Louis L. Wu at:

REED & ASSOCIATES
800 Menlo Avenue, Suite 210
Menlo Park, California 94025

Address all telephone calls to Louis L. Wu at (650) 330-0900.

This appointment, including the right to delegate this appointment, shall also apply to the same extent to any proceedings established by the Patent Cooperation Treaty.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

First Joint or Sole inventor:

Signature: John P. Cumings Date: 10/12/01
Full Name of Inventor: John P. Cumings
Citizenship: United States of America
Residence: Oakland, California
Post Office Address: 5719 Keith Ave., Oakland, California 94618

Second Joint inventor:

Signature: Alex Zettl

Date: 10/15/01

Full Name of Inventor: Alex K. Zettl

Citizenship: United States of America

Residence: Kensington, California

Post Office Address: 147 Highland Blvd., Kensington, California 94708

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**REVOCATION OF POWER OF
ATTORNEY WITH
NEW POWER OF ATTORNEY
AND
CHANGE OF CORRESPONDENCE ADDRESS**

Application Number	
Filing Date	11/18/2003
First Named Inventor	John P. Cumings
Art Unit	
Examiner Name	
Attorney Docket Number	IB-1651A

I hereby revoke all previous powers of attorney given in the above-identified application.

☐ A Power of Attorney is submitted herewith.

OR

☒ I hereby appoint the practitioners associated with the Customer Number:

08076

☒ Please change the correspondence address for the above-identified application to:

☒ The address associated with
Customer Number:

OR

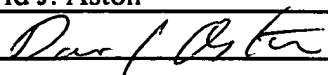
<input type="checkbox"/> Firm or Individual Name					
Address					
Address					
City		State		Zip	
Country					
Telephone		Fax			

I am the:

☐ Applicant/Inventor.

☒ Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

SIGNATURE of Applicant or Assignee of Record

Name	David J. Aston		
Signature			
Date	November 18, 2003	Telephone	(510) 495-2839

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 1 forms are submitted.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

ASSIGNMENTU.C. Case No. IB-1651

For good and valuable consideration, the receipt of which is hereby acknowledged, ASSIGNOR(S),

- | | |
|---------------------------|-------------------------|
| 1. <u>John P. Cumings</u> | 2. <u>Alex K. Zettl</u> |
| 3. _____ | 4. _____ |

hereby sells, assigns and transfers to ASSIGNEE, The Regents of the University of California, a California Corporation, having its statewide administrative offices located at 1111 Franklin Street, 12th Floor, Oakland, California 94607-5200, and the successors, assigns and legal representatives of the ASSIGNEE all of its right, title and interest for the United States and its territorial possessions and in all foreign countries in and to, any and all improvements which are disclosed in UCB Case No. IB-1651 entitled:

METHOD FOR SHAPING A NANOTUBE AND A NANOTUBE SHAPED THEREBY

or which is found in

- (a) _____ U.S. provisional application filed herewith and listing the above named persons as inventors
- (b) _____ U.S. patent application filed herewith and listing the above named persons as inventors
- (c) X U.S. application serial no. 09/915,207, filed on July 24, 2001
- (d) _____ U.S. Patent No. _____, issued _____

and any legal equivalent thereof in a foreign country, including the right to claim priority and, in and to, all Letters Patent to be obtained for said invention by the above application or any continuation, division, continuation-in-part, extension, conversion to 35 USC 111(a) or substitute thereof, and any reissue, reexamination or extension of said Letters Patent and all rights under all International Conventions for the Protection of Industrial Property;

ASSIGNOR(S) hereby covenants that no assignment sale, agreement or encumbrance has been or will be made or entered into which would conflict with this assignment;

ASSIGNOR(S) further covenants that ASSIGNEE will, upon its request, be provided promptly with all pertinent facts and documents relating to said invention and said Letters Patent and legal equivalents as may be known and accessible to ASSIGNOR and will testify as to the same in any interference, litigation, or proceeding relating thereto and will promptly execute and deliver to ASSIGNEE or its legal representative any and all papers, instruments or affidavits required to apply for, obtain, maintain, issue or enforce said application, said invention and said Letters Patent and said equivalents thereof which may be necessary or desirable to carry out the purposes thereof. An attorney of record is authorized and requested by the execution of this assignment to insert into this assignment the filing date and serial number of said application when officially known.

AND the ASSIGNOR(S) requests the Commissioner of Patents and Trademarks to issue said Letters Patent of the United States and any reissue or extension thereof to the ASSIGNEE, The Regents of the University of California.

executed this

12 day of October, 200115 day of October, 2001

Signature of Inventor(s)

John Cumings

John P. Cumings

Alex K. Zettl

Alex K. Zettl

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)Applicant/Patent Owner: The Regents of the University of California

Application No./Patent No.: _____ Filed/Issue Date: _____

Entitled: A Method For Shaping A Nanotube And A Nanotube Shaped TherebyThe Regents of the University of California, a University

(Name of Assignee)

(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or2. ☐ an assignee of less than the entire right, title and interest.The extent (by percentage) of its ownership interest is _____ %
in the patent application/patent identified above by virtue of either:A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.☐ Additional documents in the chain of title are listed on a supplemental sheet.☐ Copies of assignments or other documents in the chain of title are attached.

(NOTE: A separate copy (i.e., the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

1/18-03

Date

(510) 495-2839

Telephone number

David J. Aston

Typed or printed name

David J. Aston

Signature

LBNL - Chief Patent Counsel

Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.